

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION**

MELVIN JAMES JACKSON,

Petitioner,

VS.

BRIAN OWENS, Commissioner,

Respondent.

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1 : 09-CV-102 (WLS)

ORDER AND RECOMMENDATION

Presently pending in this § 2254 action is the petitioner's Motion to Dismiss his claims previously identified by the respondent as unexhausted. (Doc. 26). However, the respondent has withdrawn his Motion to Dismiss petitioner's unexhausted claims, and has filed a brief addressing the merits of petitioner's grounds for relief. (Docs. 19, 20).

Accordingly, it is the recommendation of the undersigned that petitioner's Motion to Dismiss be **DENIED**. Pursuant to 28 U.S.C. § 636(b)(1), the parties may file written objections to this recommendation with the Honorable W. Louis Sands, United States District Judge, WITHIN FOURTEEN (14) DAYS after being served with a copy.

Petitioner's motions seeking clarification and the denial of respondent's earlier filed Motion to Dismiss are hereby **DENIED** as moot, in light of the respondent's withdrawal of his Motion to Dismiss. (Docs. 14, 15, 17).

SO ORDERED and RECOMMENDED, this 21st day of June, 2010.

S/ THOMAS Q. LANGSTAFF

UNITED STATES MAGISTRATE JUDGE